

FILED

MAY 31 1994

HOWARD HANSON
MARIN COUNTY CLERK
BY C HARDING DEPT

RECEIVED

MAY 31 1994

HUB LAW OFFICES

1 Ford Greene
California State Bar No. 107601
2 HUB LAW OFFICES
711 Sir Francis Drake Boulevard
3 San Anselmo, California 94960-1949
Telephone: (415) 258-0360
4 Telecopier: (415) 456-5318

5 Attorney for Defendant and Cross-Complainant
GERALD ARMSTRONG

6
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF MARIN
9

A. Benz
5-31-94
JH

10 CHURCH OF SCIENTOLOGY INTERNATIONAL,)
11 a California not-for-profit)
12 religious corporation,)

No. 157 680

13 Plaintiff,)

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION TO COMPEL FURTHER
RESPONSES TO REQUESTS FOR
ADMISSION FROM PLAINTIFF

14 vs.)

15 GERALD ARMSTRONG; MICHAEL WALTON;)
16 THE GERALD ARMSTRONG CORPORATION,)
a California for-profit)
17 corporation; DOES 1 through 100,)
inclusive,)

18 Defendants.)

Date: 6/20/94
Time: 2:30 p.m.
Dept: Referee Benz
Trial Date: 9/29/94

19 I. INTRODUCTION

20 Code of Civil Procedure section 2033 (1) states in part "If
21 the party requesting admissions, on receipt of a response to the
22 requests, deems that (1) an answer to a particular request is
23 evasive or incomplete, or (2) an objection to a particular request
24 is without merit or too general, that party may move for an order
25 compelling a further response." For the purposes of the instant
26 motion, Scientology, rather than directly responding to the
27 requests at issue, interposed boilerplate objections as follows:
28

COPY

1 Plaintiff objects to this request for admission on the
2 grounds that it is (1) irrelevant to the subject matter
3 of the action, (2) interposed solely to harass, oppress
and annoy the plaintiff, and (3) vague, ambiguous and
unintelligible as phrased.

4 As will be discussed below, the objections are without merit
5 as well as too general.

6 **II. STATEMENT OF FACTS**

7 Plaintiff Church of Scientology International (CSI) has sued
8 Gerald Armstrong, The Gerald Armstrong Corporation, and Michael
9 Walton for allegedly fraudulently conveying a house and cash in
10 order to defeat CSI's ability to collect damages for the alleged
11 breaches of a settlement contract with Armstrong.

12 Thus, CSI's claim is necessarily predicated upon that
13 settlement contract. As matters in defense, Armstrong asserts
14 that his compliance was obtained by duress that was generated by
15 CSI's inalterable adherence to certain policies and practices.

16 In his answer Armstrong states:

17 Armstrong denies that the agreement contained carefully
18 negotiated and agreed-upon provisions. Armstrong was
19 not included in one word of the negotiations, which were
20 engineered by CSI through its fair game operations
21 toward and compromise of Armstrong's attorney, Michael
22 Flynn. Armstrong never agreed to the conditions, but
did agree with the representations of his attorney that
the conditions were unenforceable. CSI intended and
used the settlement to continue its litigation war with
Armstrong, and to extend its use of litigation to attack
its perceived enemies.

23 [Answer filed 11/30/93, at 2:4-13]

24 Foremost among said policies is that named fair game. An
25 individual or entity is subject to said policy if he is considered
26 by Scientology as an enemy. In its opinion in Church of
27 Scientology v. Armstrong (1991) 232 Cal.App.3d 1060, the Second
28 District Court of Appeal upheld Judge Breckenridge's decision in

1 Armstrong's favor ^{1/} when Scientology first sued him and found:

2 Commencing in February 1992, the international Church of
3 Scientology issued a series of "suppressive person
4 declares" in effect labeling Armstrong an enemy of the
5 Church ... These "declares" subjected Armstrong to the
6 "Fair Game Doctrine" of the Church, which permits a
7 suppressive person to be "tricked, sued or lied to or
8 destroyed ... [or] deprived of property or injured by
9 any means by any Scientology

10 (Id. 232 Cal.App.3d at 1067) ^{2/}

11 In the current litigation, Armstrong's Eleventh Affirmative
12 defense of Duress and Undue Influence states:

13 Plaintiff is barred from bringing this action
14 against Armstrong because it implemented fair game
15 stratagems on Armstrong, his attorney Michael Flynn, and
16 upon other anti-Scientology litigants and would continue
17 such conduct against all such persons unless all such
18 anti-Scientology litigants, including Mr. Flynn, signed
19 settlement agreement substantially similar to that
20 signed by Armstrong.

21 [Answer filed 11/30/93, at 13:3-9]

22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

III. SCIENTOLOGY HAS FAILED TO SUFFICIENTLY RESPOND

¹ A copy of this decision has been filed herein on October
28, 1993 as Exhibit 1.A in Vol. I of Defendants' Evidence In
Support Of Defendants' Motion To Commence Coordination Proceedings
(hereinafter "Breckenridge Opinion").

² California courts of appeal are no strangers to the harm
wreaked by fair game. (see Wollersheim v. Church of Scientology
(1989) 212 Cal.App.3d 872, 888 [fair game is the modern equivalent
to the Christian inquisitional practice of destroying heretics by
stripping him of his economic, political and psychological power];
Allard v. Church of Scientology (1976) 58 Cal.App.3d 439, 444
[former Church member falsely accused by Church of grand theft as
part of fair game policy, subjecting him to arrest and
imprisonment])

1 TO CERTAIN REQUESTS FOR ADMISSION OF FACTS

2 A. The Requests Pertaining To Fair Game

3 1. Scientology's Objections

4 As discussed more fully below, the requests for admission
5 which pertain to fair game are Nos. 3, 6, 7, 8, 9, 10 and 13. As
6 to each such request, Scientology has interposed the same
7 objection which has been recited above.

8 As each item is discussed, Armstrong will address the
9 components of objection.

10 2. Request No. 3

11 Request No. 3 asks plaintiff to admit that from 1984
12 through 1986 it or its agents took action to accuse Armstrong's
13 former counsel, Michael Flynn, "with attempting to have cashed a
14 check on an account of L. Ron Hubbard at the Bank of New England."

15 Part of the fair game action taken by Scientology against
16 Flynn was to publicly attack his reputation by characterizing him
17 as a criminal. (See Separate Statement of Requests and Responses
18 in Dispute) One element of Armstrong's theory of defense is that
19 in consequence of the pressure generated by the fair game
20 activities that Scientology imposed on Flynn, Flynn coerced
21 Armstrong into signing the settlement contract. Based upon
22 Armstrong's affirmative defense, it is clear that this request is
23 relevant to the subject matter of the litigation. (C.C.P. § 2017
24 (a); Colonial Life & Acc. ins. Co. v. Sup.Ct. (1982) 31 Cal.3d
25 785, 790; Cembrook v. Superior Court (1961) 56 Cal.2d 423, 429)

1 Thus, this request is relevant to Armstrong's defense. ^{3/}

2 Particularly in light of the undisputed relevance of this
3 request, Scientology's objection that the request is intended to

4
5 ³ As noted in Armstrong's separate statement of requests
6 and responses in dispute, he states: "The request is relevant to
7 the subject matter of the action, interposed for legitimate
8 discovery reasons, and very clear. Armstrong contends that
9 Scientology subjected Michael Flynn to a campaign of "Fair Game"
10 which included complex intelligence and Black PR operations, and
11 which resulted, as Scientology intended, in Flynn's desire to get
12 out of Scientology-related litigation, as a defendant, plaintiff,
13 attorney of record or co-counsel at almost any cost. One of the
14 operations Scientology ran against Flynn involved accusing him in
15 legal proceedings, including Armstrong I, and in the international
16 media of participating in, indeed masterminding, the forgery of a
17 \$2,000,000 check on one of Hubbard's bank accounts. Flynn
18 represented Armstrong. To get out from under the fair game
19 attacks and threat Flynn passed on Scientology's duress to
20 Armstrong, acting as Scientology's de facto agent. Flynn told
21 Armstrong that Scientology had ruined his marriage, threatened his
22 family and law practice, and attempted to have him murdered.
23 Armstrong had himself personal knowledge of the organization's
24 illegal policies and practices, and had himself been the target of
25 fair game attacks and threat. Flynn advised Armstrong that he,
26 Flynn, had to get out of the Scientology litigation, including
27 Armstrong's case, and stated that the threats and attacks would
28 continue if Armstrong did not sign the subject settlement
agreement. If what Armstrong claims was done to Flynn by
Scientology and what Flynn told Armstrong is true, the subject
settlement agreement was signed under duress, is invalid, and
Scientology's claim of damages owed by Armstrong, on which it
bases its claims in this action is invalid. Scientology's years
of acts against Flynn, therefore, have undeniable relevance to
this action. CSI did not demur to or move to strike
Armstrong's verified answer herein, which contains defenses based
on such acts, thus CSI's objections to this request for admission
are unfounded and obstructive. See, e.g., eleventh affirmative
defense (Duress and Undue Influence) in Armstrong's verified
answer. Moreover, Judge Thomas ruled in his order sustaining
CSI's demurrer to Armstrong's first amended cross-complaint that
the issues (concerning Armstrong's cause of action for declaratory
relief regarding the subject agreement based on duress, etc.) will
be determined either in the Los Angeles action or in this action.
The subject matter of this request, therefore, is already ordered
relevant in CSI's clearly interrelated lawsuits against Armstrong,
and to argue that this request should not be answered because it
is not relevant in either case, but certainly where there is a
September trial date, is not done in good faith. Furthermore,
Armstrong has filed a second amended verified cross-complaint
which is based on and includes a recitation of Scientology's fair
game acts against Flynn."

1 "harass, oppress and annoy" it is without basis.

2 Finally, the objection that the request is "vague, ambiguous
3 and unintelligible" is factually without merit. The request is
4 not so ambiguous that Scientology is unable in good faith to frame
5 an intelligent response. (Deyo v. Kilbourne (1979) 84 Cal.App.3d
6 771, 783; Cembrook, supra. 56 Cal.2d at 429)

7 3. Requests No. 8, 9, 10

8 Requests No. 8, 9, and 10 respectively ask Scientology
9 to admit that it considered that Flynn was, Armstrong was, and
10 Armstrong is "an enemy of plaintiff."

11 These requests are obviously relevant to whether or not Flynn
12 and Armstrong were, and are, subjects of the fair game policy.
13 Armstrong reasserts the above arguments regarding the relevance of
14 this request, in addition to the arguments which address the other
15 objections.

16 4. Request No. 13

17 Request No. 13 asks

18 That the following advice of L. Ron Hubbard is a
19 part of Scientology scripture: "The law can be used very
20 easily to harass, and enough harassment on somebody who
21 is on the thin edge anyway, well knowing that he is not
22 authorized, will generally be sufficient to cause his
23 professional decease. If possible, of course, ruin him
24 utterly."

25 This is relevant to whether or not the foregoing "scripture"
26 addresses the implementation of the portion of fair game which
27 states that an enemy of Scientology may be "sued . . . or
28 destroyed."

29 Armstrong reasserts the above arguments regarding the
30 relevance of this request, in addition to the arguments which
31 address the other objections.

1 5. Requests No. 6 & 7

2 Request No. 6 asks Scientology to admit "That the Guardian's
3 Office of Scientology staff used means to deal with people the
4 Guardian's Office perceived as enemies of Scientology that were
5 against the law." ^{4/}

6 Request No. 7 asks Scientology to admit: "That the Guardian's
7 Office functions were taken over by Sea Organization units,
8 offices or organizations." ^{5/}

9 Armstrong reasserts the above arguments regarding the
10 relevance of this request, in addition to the arguments which
11 address the other objections.

12 Certainly some of Scientology's fair game actions have been
13 against the law. (see Wollersheim, supra.; Allard, supra.) The
14 in-house agency that was responsible for such conduct is within
15 the scope of discovery, particularly because such agency may have
16 been, and might be, responsible for fair game activities against
17 Armstrong.

18
19
20 ⁴ The "Guardian's Office" was a specific organizational
21 unit within Scientology. "The Guardian's Office is charged with
22 the protection of Scientology. The Guardians handle intelligence
23 matters including covert operations to acquire government
24 documents critical of Scientology, internal security within
25 Scientology, and covert operations to discredit and remove from
26 positions of power all persons whom Scientology considers to be
27 its enemies." (United States v. Heldt (D.C. Cir. 1981) 668 F.2d
28 1238, 1247)

25 ⁵ In 1992, the United States Tax Court held that
26 Scientology's corporate structure was a "deceptis visus" and that
27 control was exerted through the Sea Organization. "Real control
28 is exercised less formally, but more tangibly, through an
unincorporated association, the Sea Organization, more commonly
referred to as the Sea Org." (Church of Spiritual Technology v.
United States (1992) 26 Cl.Ct. 713, 718, affirmed 991 F.2d 812)

1 **B. The Request Pertaining To The**
2 **Flynn Non-Representation Contract**

3 Request No. 11 asked Scientology to admit "That plaintiff
4 entered into a contract with Michael Flynn which prohibited him
5 from representing any parties, including Armstrong, in future
6 litigation against plaintiff or any other Scientology-related
7 organizations, entities or individuals."

8 This request is relevant to Armstrong's Eleventh Affirmative
9 Defense, quoted in full above in the section discussing the
10 relevance of the fair game policy to this litigation.

11 It is also relevant to Armstrong's Thirty-Sixth Affirmative
12 Defense of Conflict of Interest which asserts:

13 Plaintiff is barred from bringing this action against
14 Armstrong because defendant Armstrong's former attorney
15 Michael Flynn, in conjunction with settling Armstrong's
16 case against Scientology-related entities, also settled
17 30 other cases, including cases of his own against
18 Scientology-related entities without procuring outside
19 counsel for Armstrong.

20 [Answer filed 11/30/93, at 20:25-21:2]

21 Moreover, whether or not Scientology entered into a contract
22 with Flynn whereby Flynn agreed never to represent Armstrong in
23 future litigation against Scientology is relevant to Armstrong's
24 defense that Flynn advised him that the salient provisions of the
25 settlement contract were not enforceable. [Answer filed 11/30/93,
26 at 3:8-11, 7:20-21, 20:11-17]

27 **C. The Request Pertaining To Armstrong's Alleged Breaches**

28 Request No. 12 asks Scientology to admit "That no enmity was
ever generated by Armstrong at any time in plaintiff or
plaintiff's members." A central justification for Scientology's
lawsuit is that Armstrong engaged in such activity [Complaint

1 filed 7/23/93 at 2:4-19] which allegation he has denied.

2 Therefore, it relates to a matter that is in controversy between
3 the parties and is relevant. (C.C.P. § 2033 (a))

4 Request No. 21 asks Scientology to admit "That Armstrong did
5 not begin in February 1990 to breach the settlement agreement."
6 Since it is such alleged breaches, if any, upon which Scientology
7 rests its claim on which the instant lawsuit rests, the relevance
8 of this request is central.

9 Armstrong reasserts the above arguments regarding the
10 relevance of this request, in addition to the arguments which
11 address the other objections.

12 **D. The Request Pertaining To Scientology's Alleged Damages**

13 Request No. 23 asked that Scientology admit "That plaintiff
14 has not been damaged in any way or manner whatsoever by any
15 alleged breaches of the Settlement Agreement by Armstrong at any
16 time."

17 Whether or not Scientology has been damaged by what it
18 alleges to have been Armstrong's breaches is obviously central to
19 the case. If Scientology has not been damaged, there will not be
20 any basis for its claim that Armstrong fraudulently conveyed his
21 assets in order to make himself judgment-proof so that he could
22 breach the settlement contract and suffer no penalty therefrom.

23 As to this response, Armstrong again reasserts the above
24 arguments regarding the relevance of this request, in addition to
25 the arguments which address the other objections.

26 **IV. MONETARY SANCTIONS SHOULD BE IMPOSED**

27 Code of Civil Procedure section 2033 (1) states that the
28 Court shall impose a monetary sanction under Code of Civil

1 procedure section 2023 against any party and attorney who opposes
2 a motion to compel a further response unless it finds that the one
3 subject to the sanction acted with substantial justification or
4 that other circumstances make its imposition unjust.

5 Based upon the foregoing discussion, it is clear that the
6 only possibly valid objection was that which was based upon
7 relevance. As to each of the relevance objections, however, they
8 were interposed with no justification inasmuch as each request
9 dealt directly with the issues framed by the complaint and answer
10 in this litigation.

11 **V. CONCLUSION**

12 Based upon the foregoing arguments, defendant Gerald
13 Armstrong respectfully submits that the motion to compel further
14 responses should be granted and monetary sanctions imposed.

15 DATED: May 31, 1994

HUB LAW OFFICES

16
17
18 By: 

FORD GREENE

Attorney for Defendant and
Cross-Complainant
GERALD ARMSTRONG